

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANTHONY MASCARENAS,

Plaintiff,

vs.

Civ. No. 98-170 LCS

MARIO CABALLERO, et al.,

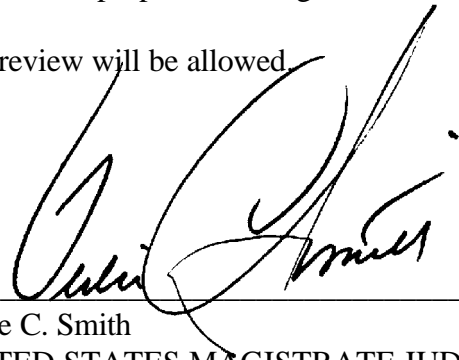
Defendants.

MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION

This matter comes before the Court upon Defendant Caballero's Motion to Dismiss or, in the Alternative, for More Definite Statement, filed March 12, 1998. Defendant Caballero served the motion to dismiss and the supporting brief on February 16, 1998. **See** Certificates of Service in motion to dismiss and supporting brief. No response has been served nor has there been a request to extend the time to respond to the motion to dismiss. Consequently, pursuant to D.N.M. LR-Cv 7.3(a)(4) the briefing is complete. Additionally, pursuant to D.N.M. 7.5(b), the failure to respond "constitutes consent to grant the motion." I, therefore, recommend that Defendant Caballero's Motion to Dismiss or, in the Alternative, for More Definite Statement be granted and this cause dismissed as to Defendant Caballero.

Timely objections to the foregoing may be made pursuant to 28 U.S.C. §636(b)(1)(C). Within ten days after a party is served with a copy of these proposed findings and recommendations that party may, pursuant to §636(b)(1)(C), file written objections to such proposed findings and recommendations. A party must file any objections within the ten day

period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

A handwritten signature in black ink, appearing to read 'Leslie C. Smith', is written over a horizontal line.

Leslie C. Smith
UNITED STATES MAGISTRATE JUDGE